

What's New in the 2015 Idaho Special Education Manual

January 30, 2015

The revisions to the 2015 version of the Manual were comprehensive in that the Manual was reviewed in total with an eye toward recent IDEA changes and clarifying state policies of practice. Updates and changes identified in this document are not all-inclusive, but do represent the major revisions in this version over the 2009 edition. Generally speaking, this "What's New" document identifies changes marking a significant departure or important change from the 2009 Manual.

We have divided this document into sections, describing changes by chapter and page number. We recommend that Districts maintain a copy of the 2009 Manual for reference for two years (the statute of limitations for a due process hearing to be filed). Additionally, the SDE has made no changes to the Appendices in the 2009 manual. Those Appendices can be transferred directly from the 2009 Manual to the 2015 Manual.

IMPORTANT INFORMATION REGARDING DISTRICT BOARD ADOPTIONS

Each district is required to adopt the new manual, and submit evidence that their board did adopt the new manual as part of the IDEA Part B application. As part of the IDEA Part B application, districts should be able to provide evidence of their board's decision in the form of minutes of the meeting in which the manual was adopted.

Key Changes from 2009 to 2015 Manual

GENERAL FORMAT

- In the entire manual version on the SDE website, both the *Contents* section (page i) and each chapter's introduction have hyperlinked page numbers. (This is not true for each PDF of individual chapters online). This allows for easy navigation of the entire document.
- Chapter 14 has been removed. No IEP forms are part of the Manual allowing for changes to forms without going through the State Board of Education for approval.

GLOSSARY

- New definitions and new terminology include: adverse impact (pg. xv); change of placement (pg. xviii); educational performance (pg. xxi); educational record (pg. xxii); homebound student (pg. xxv); and homeschool and homeschooled students (pg. xxv).
- "Cognitive Impairment" has been changed to "Intellectual Disability," "Learning Disability" has been replaced with "Specific Learning Disability," "Autism" has been replaced with "Autism Spectrum Disorder," and "Health Impairment" has been replaced with "Other Health Impairment" throughout the manual.

CHAPTER 1: Overview

- Clarified that a district may not use general education interventions (RTI) to delay or deny a request for referral based on needing to complete the RTI process first (pg. 6).
- For evaluation and eligibility determination, line was added to indicate that an evaluation must be sufficiently comprehensive to identify all of the child's special education and related service needs (pg. 7)

- Explained that students transitioning from Part C (Infant Toddler Program) to Part B (LEA) must have eligibility and IEP developed, for students who qualify for early intervention, prior to the students 3rd birthday, even when school is not in session (pg. 8).
- Added language to explain that written notice should be provided if the IEP team refuses to make a change based on the parent's request. (pg. 9)
- Language was added that "The IDEA does not require consent for a reevaluation if the district has made documented attempts to get consent and the parent has not responded." (pg. 10)

CHAPTER 2: Free Appropriate Public Education

- Added: "Students aged three (3) to five (5) must have their special education services identified on an IEP since Idaho does not have state-funded preschool programs." (pg.18)
- Clarified that student with a disability who has been placed in a private school or facility by the parent does not have an individual right to receive all or part of the special education and related services that the child would receive if enrolled in a public school. However the district would have Child Find responsibilities (pg. 18).
- Added clarification that students who are dually enrolled in a school district's general education program may be considered for a Section 504 plan if needed to provide supports and/or accommodations for those general education courses for which they are enrolled (pg. 18).
- Added clarification that a student who is enrolled in a virtual public school is not considered a homeschooled student for the duration that they attend that virtual public school (pg. 18).
- Clarified that homeschool students may not dually enroll in a public school solely for special education and/or related services (pg. 19).
- Clarified that a district's obligation to provide FAPE ends when consent is revoked (pg. 19).
- Explained differences in consent requirements for accessing a parent's private insurance as opposed to public insurance (e.g., Medicaid) (pg. 21).

CHAPTER 3: Child Find

- Added reporting requirements if IDEA Part B funds are used, that the district must annually report to the SDE the number of children receiving Comprehensive Early Intervening Services (CEIS); and the number of children who received CEIS and subsequently received special education services during the preceding two year period (pg. 27).
- Clarified that IDEA Part B funds cannot be used to provide CEIS to preschoolers (pg. 28).
- Added interventions in general education or an early childhood environment shall be attempted before a student is referred to an evaluation team, unless the student's performance indicates an evaluation is warranted or a parent makes a request for a referral for a special education evaluation (pg. 28).
- Clarified that if a parent initiates a referral for a special education evaluation, the evaluation cannot be delayed or denied due to the child not completing the general education intervention process (pg. 29).

CHAPTER 4: Evaluation and Eligibility

- Clarified that a school psychologist is a required member of an evaluation team determining whether a student is suspected of having a specific learning disability (pg. 35).
- Added that if a district is using any data gathered during general education interventions for a student suspected of being a student with a disability, and that data may be used for a later eligibility determination, the district shall promptly request consent to evaluate the student (pg. 39).

- Clarified that consent for the initial evaluation shall not be construed as consent for the initial provision of special education services should the student be deemed eligible (pg. 40).
- Clarified the timeline of implementation of an IEP (pg. 40).
- Added that beginning with the IEP to be in effect when a student is sixteen (16) years old (or younger if determined appropriate by the IEP team), appropriate transition assessments shall be conducted (pg. 41).
- Expanded requirements for Eligibility Reports (pg. 45-46).
- Removed “Regressed Intelligence Quotient Scores” from Documents section.

CHAPTER 5: Individualized Education Programs

- Clarified timeline to develop an IEP is 30 calendar days from the eligibility determination (pg. 80).
- Added that the Invitation to the IEP Team Meeting will include notification that post-secondary goals and transitions services will be discussed, as applicable (pg. 84).
- Clarified that prior to the beginning of the meeting, an excusal form, with the parent/adult student’s signature of approval, shall be attached identifying any required district members not present at the IEP team meeting (pg. 86).
- Added that any participant at the IEP team meeting may file a minority report if he or she disagrees with a program decision. A minority report shall not prevent the implementation of an IEP team decision (pg. 86).
- Clarified that benchmarks/objectives for students who participate in Alternate Assessments based on Alternate Achievement Standards shall show a direct relationship with the content of present levels of academic and functional performance (pg. 87).
- Changed the term “starting point” to “baseline data” for goal development (pg. 87).
- Added that the present level of academic and functional performance statements will include a statement of the student’s strengths and needs and a statement of how the disability affects involvement in the general education curriculum (p. 87).
- Clarified that periodic written progress statements related to progress toward annual goals will be reported, at minimum, concurrent with the issuance of report cards (pg. 88).
- Clarified that “location” does not mean the specific site of where services will be provided, but is a general location (pg. 90).
- Clarified differences between “modifications,” “accommodations,” and “adaptations” (pg. 90-91).
- Clarified that a parent’s written objection to an IEP cannot be used to prevent the district from placing a student in an Interim Alternative Educational Setting (IAES) (pg. 100).
- Added that for a transition age student, the IEP shall include evidence the child was invited to the IEP team meeting and the student’s preferences were considered, and representatives of any participating agency was invited to the meeting with the prior consent of the parent/adult student (pg. 101).
- Clarified timelines for requesting and sending records, including that Idaho law requires a receiving district of a transferring IEP student to request a copy of the eligibility documentation and most current IEP within two school days, and within five school days of receipt, the new district determines if new assessment is required (pg. 103).
- Clarified interim IEPs (with parental agreement), when IEPs must be in effect during reevaluations and additional assessments, and record retention for students transferring out of district (pg. 103).

- Clarified that interagency agreements and protocols must be in accordance with the current state Interagency Agreement for Early Childhood Special Education Services and Early Intervention for Children Ages Two through Five (page. 104).
- Clarified that in Part C to Part B Transition planning, a district must make contact with the family and provide procedural safeguards and other information about Part B services (pg. 105).
- Clarified that a student identified as a student with a disability, who is eligible for special education, and who is convicted as an adult and incarcerated in an adult prison, is not subject to Child Find, but if already identified is entitled to FAPE until age twenty-one (21) (pg. 107).

CHAPTER 6: Least Restrictive Environment

- Clarified if a student is not placed in a general education classroom, the IEP must include additional justifications (pg. 112).

CHAPTER 7: Discontinuation of Services, Graduation and Grading

- Clarified that for students who have not yet met their district's high school graduation requirements, the district's obligation to provide special education ends at the completion of the semester in which the student turns 21 (pg. 117).
- Clarified need to send written notice when consent for special education is revoked, and that a parent/adult student has the right to revoke consent for IEP services in their entirety, not service by service (pg. 119).
- Clarified that a Parent Approved Student Learning Plan will be reviewed annually, but may be revised at any time (pg. 119).
- Added IDAPA language "and become a contributing member of society" (pg. 119).
- Clarified students' demonstration of proficiency requirements on the assessments (pg. 120).
- Clarified that participation in a graduation ceremony does not equate to the receipt of a regular high school diploma (pg. 121).
- Clarified that for students who are eligible for special education services, the district will use a regular diploma at the completion of their secondary program through meeting graduation requirements or criteria established on his or her IEP; this includes students who meet the graduation requirements with accommodations and/or adaptations (pg. 121).

CHAPTER 8: Charter Schools

- Clarified that an LEA charter school board of directors/trustees is required to adopt and ensure that the LEA implements this Manual (pg. 125).
- Added that a charter school may be authorized by a college or university (pg. 125).
- Emphasized that a charter school student is a public school student with all the same rights to FAPE as would be afforded in a public school (pg. 125-126).
- Added that for a charter authorized by a district, the district is required to provide Part B funds and comparable services to the charter school on the same basis as it provides such funds to other schools within the district (pg. 126).
- Added that nondiscriminatory enrollment procedures shall be publically displayed on the charter school's website and in the charter school's enrollment application form (pg. 127).
- Clarified the dual enrollment in other public schools and the responsibility of the charter school to provide special education services (pg. 128-129).

CHAPTER 9: Private School Students

- Clarified that “private school student” is the same as a “nonpublic school student,” but that a “homeschooled student” is not considered a “private school student.” However any student enrolled in a virtual public school is not considered a “homeschooled student” while they attend that virtual public school (pg. 135).
- Clarified that The IDEA distinguishes between for profit and nonprofit private schools. If a student is placed in a for profit private school by their parents the service plan provisions do not apply (pg. 135).
- Clarified the Child Find responsibilities of districts where a child resides and where the private school is located. Both districts would have Child Find responsibilities, and neither district can share information with the other without written parental consent (pg. 138).
- Clarified that the district of residence would have Child Find responsibilities for students placed in for-profit schools and for children aged three (3) to five (5) (pg. 138).
- Clarified that Students aged three (3) to five (5) must have their special education services identified on an IEP since Idaho does not have state-funded preschool programs (pg. 138)
- Added that the cost of Child Find is not counted toward the pro-rated proportionate share that the district must spend on services (pg. 138).
- Clarified that if a district finds a student eligible for services the district must develop an IEP, unless the parent expresses intent not to enroll the child in the district. The IEP will be implemented if the child enrolls in the district (pg. 139)
- Clarified that service plans are developed by the same members who would be on an IEP team (pg. 140)
- Clarified that when a district places a student in a private school or facility, the IEP team will include a representative from the private school, via teleconference if necessary (pg. 143).
- Clarified when a unilateral placement by a parent will be deemed appropriate (pg. 145).
- Incorporated the recent legal decision regarding out of state students residing in residential facilities (pg. 146-147).

CHAPTER 10: Improving Results

- Added that the district is required to submit timely and accurate data based on the indicators in the Idaho’s State Performance Plan, posted annually on the SDE website (pg. 155).
- Clarified the competencies listed in the ESEA for paraprofessionals working in a Title I school (161).
- Removed the Certification Standards for Paraprofessionals document from the end of the chapter.

CHAPTER 11: Procedural Safeguards

- Clarified that if a court order specifies another person to act as parent, that would supplant the biological parent at the IEP meeting (pg. 167).
- Clarified district obligation to end services if one parent revokes consent for services (pg. 171).
- Clarified that reviewing of existing information does not require consent (pg. 172).
- Clarified when the excusal of an IEP team member is required (pg. 173).
- Clarified what is and is not an educational record (178-179).
- Added that districts must have a policy to protect personally identifiable information from security risk resulting from unsecured data transmittal or storage (pg. 180).
- Clarified records destruction policy (pg. 183-184)

- Added that a district may initiate a due process hearing to determine if an IEE is appropriate (pg. 185).
- Removed Application for Surrogate Parent from Documents section.
- Changed revision date on Procedural Safeguards to December 2014 and updated IPUL and DRI contact information.

CHAPTER 12: Discipline

- Clarified IDEA allowable days of suspension, and allowable suspensions by superintendents and school boards (pg. 192).
- Requirement of written notice on the date when a decision is made to change a student's placement (pg. 193).

CHAPTER 13: Dispute Resolution

- Clarified definitions, roles, and processes for facilitation (pg. 209-210).
- Added informal conflict resolution process (pg. 210-212).
- Clarified definitions, roles, and processes for mediation (pg. 212-215).
- Changed "formal complaint" to "state complaint."
- Clarified definitions, roles, and processes for state complaint (pg. 215-216).
- Removed Early Complaint Resolution from state complaint options (pg. 216).
- Clarified definitions, roles, and processes for due process hearings (pg. 218-227).
- Added that due process hearings shall be conducted pursuant to the *Idaho Rules of Administrative Procedure of the Attorney General* (IDAPA), IDEA requirements, and this Manual. In case of any conflict between IDAPA and the IDEA, the IDEA shall supersede. IDAPA rules shall supersede this Manual (pg. 224).
- Clarified definitions, roles, and processes for expedited due process hearings (pg. 228-229).
- Clarified the appeal and civil action process (pg. 229).
- Added Mediation Agreement (pg. 235-236) and Mediation Confidentiality Agreement (pg. 237) forms to documents section. Revised request forms for state complaint, due process hearing, and expedited due process hearing. Removed other informational documents on mediation, resolving complaints, and the resolution form. Also removed items from Ch. 13 appendix.